

1                                   **IMPOUNDING UNINSURED MOTORIST**  
2                                   **VEHICLE**

3                                   2003 GENERAL SESSION  
4                                   STATE OF UTAH

5                                   **Sponsor: Chad E. Bennion**

6   **This act modifies the Motor Vehicle Code to require an uninsured vehicle that is involved**  
7   **in an accident to be impounded <sup>h</sup>, OR THE VEHICLE OPERATOR TO BE CITED FOR NOT HAVING**  
7a1 **EVIDENCE OF INSURANCE, OR BOTH <sup>h</sup> by the investigating peace officer <sup>h</sup> [~~h~~ UNLESS THE**  
7a2 **PEACE**

7a   ~~OFFICER ESTIMATES THAT THE COST OF REPAIR OF THE VEHICLE EXCEEDS ITS VALUE <sup>h</sup>] <sup>h</sup> .~~

7b   <sup>h</sup> **THIS ACT REQUIRES LAW ENFORCEMENT AGENCIES TO ESTABLISH STANDARD PROCEDURES**  
7b1 **FOR PEACE OFFICERS TO SEIZE OR TAKE POSSESSION OF AN UNINSURED VEHICLE. <sup>h</sup> This**  
7b2 **act makes**

8   **evidence of current insurance a prerequisite to the release of the vehicle by the Motor**  
9   **Vehicle Division.**

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12       **41-6-35.5**, as last amended by Chapter 85, Laws of Utah 2001

13       **41-6-102.5**, as last amended by Chapter 200, Laws of Utah 2002

14 *Be it enacted by the Legislature of the state of Utah:*

15       Section 1. Section **41-6-35.5** is amended to read:

16       **41-6-35.5. Vehicle accidents -- Investigation and report of operator security --**  
17 **Agency action if no security -- Surrender of plates -- Penalties.**

18       (1) Upon request of a peace officer investigating an accident involving a motor vehicle,  
19 the operator of the vehicle shall provide evidence of the owner's or operator's security required  
20 under Section 41-12a-301.

21       (2) The peace officer shall record on a form approved by the department:

22       (a) the information provided by the operator;

23       (b) whether the operator provided insufficient or no information;

24       (c) if the officer finds reasonable cause to believe that any information given is not  
25 correct; and

26       (d) whether other information available to the peace officer indicates that owner's or  
27 operator's security is in effect.



28           (3) (a) ~~h h [f] If [f] h h [EXCEPT AS PROVIDED UNDER SUBSECTION (3)(b), IF] h~~ the  
 28a1 evidence of  
 28a owner's or operator's security that is provided by the operator  
 29 or that is available to the peace officer gives the peace officer reasonable cause to believe that  
 30 the vehicle does not have owner's or operator's security as required under Section 41-12a-301,  
 31 the peace officer shall h [seize or take possession of the vehicle.] :

31a           **(i) CITE THE OPERATOR UNDER SECTION 41-12a-303.2 FOR FAILURE TO HAVE IN THE**  
 31b **PERSON'S IMMEDIATE POSSESSION EVIDENCE OF OWNER'S OR OPERATOR'S SECURITY IF THE**  
 31c **OPERATOR IS IN VIOLATION OF THAT SECTION;**

31d           **(ii) SEIZE OR TAKE POSSESSION OF THE VEHICLE; OR**

31e           **(iii) DO BOTH SUBSECTION (3)(a)(i) AND (ii).** h

32           h ~~(b) h SUBSECTION (3)(a) DOES NOT APPLY IF IN THE PEACE OFFICER'S ESTIMATION, THE~~  
 32a ~~VEHICLE IS DAMAGED TO THE EXTENT THAT THE COST OF REPAIRING THE VEHICLE FOR SAFE~~  
 32b ~~OPERATION EXCEEDS ITS FAIR MARKET VALUE. h ] h~~

32c           h ~~[ (c) h ]~~ (b) h Any peace officer seizing or taking possession of a vehicle under this  
 32c1 section shall  
 33 comply with the provisions of Section 41-6-102.5.

33a           h **(c) A LAW ENFORCEMENT AGENCY SHALL ESTABLISH STANDARD PROCEDURES FOR A**  
 33b **PEACE OFFICER TO SEIZE OR TAKE POSSESSION OF A VEHICLE UNDER THIS SUBSECTION (3).** h

34           ~~[(3)]~~ (4) The peace officer shall deposit all completed forms with his agency, which  
 35 shall forward the forms to the department no later than ten days after receipt.

36           ~~[(4)]~~ (5) The department shall within ten days of receipt of the forms from the agency  
 37 take action as follows:

38           (a) If the operator provided no information under Subsection (1) and other information  
 39 available to the peace officer does not indicate that owner's or operator's security is in effect,  
 40 the department shall take direct action under Subsection 53-3-221(12).

41           (b) (i) If the peace officer noted or the department determines that there is reasonable  
 42 cause to believe that the information given under Subsection (1) is not correct, the department  
 43 shall contact directly the insurance company or other provider of security as described in  
 44 Subsection ~~[(7)]~~ (8) and request verification of the accuracy of the information submitted as of  
 45 the date of the traffic offense for which the citation was issued.

46           (ii) The department may require the verification under Subsection ~~[(4)]~~ (5)(b)(i) to be  
 47 in a form specified by the department.

48           (iii) The insurance company or other provider of security shall return the verification to  
 49 the department within 30 days of receipt of the request.

50           (iv) If the department does not receive verification within 35 days after sending the  
 51 request, or within the 35 days receives notice that the information was not correct, the

52 department shall take action under Subsection 53-3-221(12).

53           ~~[(5)]~~ (6) (a) The owner of a vehicle with unexpired license plates for which security is  
54 not provided as required under this chapter shall return the plates for the vehicle to the Motor  
55 Vehicle Division unless specifically permitted by statute to retain them.

56           (b) If the owner fails to return the plates as required, they shall be confiscated under  
57 Section 53-3-226.

58           ~~[(6)]~~ (7) The department may make rules for the enforcement of this section.



59            [~~(7)~~] (8) In this section, "evidence of owner's or operator's security" includes any one of  
60 the following:

- 61            (a) a copy of the operator's valid:
  - 62            (i) insurance policy;
  - 63            (ii) binder notice;
  - 64            (iii) renewal notice; or
  - 65            (iv) card issued by an insurance company as evidence of insurance;
- 66            (b) a certificate of insurance issued under Section 41-12a-402;
- 67            (c) a certified copy of a surety bond issued under Section 41-12a-405;
- 68            (d) a certificate of the state treasurer issued under Section 41-12a-406;
- 69            (e) a certificate of self-funded coverage issued under Section 41-12a-407; or
- 70            (f) information that the vehicle or driver is insured from the Uninsured Motorist  
71 Identification Database Program created under Title 41, Chapter 12a, Part 8.

72            [~~(8)~~] (9) A person is guilty of a class B misdemeanor, and shall be fined not less than  
73 \$100, who:

- 74            (a) when requested to provide security information under Subsection (1), or Section  
75 41-12a-303.2, provides false information;
- 76            (b) falsely represents to the department that security required under this chapter is in  
77 effect; or
- 78            (c) sells a vehicle to avoid the penalties of this section as applicable either to himself or  
79 a third party.

80            Section 2. Section **41-6-102.5** is amended to read:

81            **41-6-102.5. Removal and impoundment of vehicles -- Reporting and notification**  
82 **requirements.**

83            (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under  
84 Sections 41-1a-1101, 41-6-35.5, 41-6-44.30, 41-6-102, 41-6-116.10, or 73-18-20.1 by an order  
85 of a peace officer or by an order of a person acting on behalf of a law enforcement agency or  
86 highway authority as defined in Section 72-1-102, the removal or impoundment of the vehicle,  
87 vessel, or outboard motor shall be at the expense of the owner, to a state impound yard, or if  
88 none, to a garage, docking area, or other place of safety.

89            (2) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be

90 removed by a tow truck motor carrier that meets standards established:

91 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

92 (b) by the department under Subsection (9).

93 (3) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report

94 of the removal shall be sent to the Motor Vehicle Division by:

95 (i) the peace officer or agency by whom the peace officer is employed; and

96 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck  
97 operator is employed.

98 (b) The report shall be in a form specified by the Motor Vehicle Division and shall  
99 include:

100 (i) the operator's name, if known;

101 (ii) a description of the vehicle, vessel, or outboard motor;

102 (iii) the vehicle identification number or vessel or outboard motor identification  
103 number;

104 (iv) the license number or other identification number issued by a state agency;

105 (v) the date, time, and place of impoundment;

106 (vi) the reason for removal or impoundment;

107 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or  
108 outboard motor; and

109 (viii) the place where the vehicle, vessel, or outboard motor is stored.

110 (c) Until the tow truck operator or tow truck motor carrier reports the removal as  
111 required under Subsection (3), a tow truck motor carrier or impound yard may not:

112 (i) collect any fee associated with the removal; and

113 (ii) begin charging storage fees.

114 (4) (a) Upon receipt of the report, the Motor Vehicle Division shall give notice to the  
115 registered owner of the vehicle, vessel, or outboard motor and any lien holder in the manner  
116 prescribed by Section 41-1a-114.

117 (b) The notice shall:

118 (i) state the date, time, and place of removal, the name, if applicable, of the person  
119 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,  
120 and the place where the vehicle, vessel, or outboard motor is stored;

121 (ii) state that the registered owner is responsible for payment of towing, impound, and  
 122 storage fees charged against the vehicle, vessel, or outboard motor; and

123 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the  
 124 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released.

125 (c) If the vehicle, vessel, or outboard motor is not registered in this state, the Motor  
 126 Vehicle Division shall make a reasonable effort to notify the registered owner and any lien  
 127 holder of the removal and the place where the vehicle, vessel, or outboard motor is stored.

128 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where  
 129 the vehicle, vessel, or outboard motor is stored.

130 (5) (a) ~~h~~ **[The] EXCEPT AS PROVIDED IN SUBSECTION (5)(c), THE h** vehicle,  
 130a vessel, or outboard motor shall be released after the registered  
 131 owner, lien holder, or the owner's agent:

132 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of  
 133 the State Tax Commission;

134 (ii) presents identification sufficient to prove ownership of the impounded vehicle,  
 135 vessel, or outboard motor;

136 (iii) completes the registration, if needed, and pays the appropriate fees;

137 (iv) if the impoundment was made under Section 41-6-44.30, pays an administrative  
 138 impound fee of \$200;

139 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard  
 140 motor is stored[-]; and

141 (vi) if the impoundment was made for insufficient evidence of owner's or operator's  
 142 security after an accident under Section 41-6-35.5, provides evidence in accordance with  
 143 Section 41-12a-303.2 that the vehicle is covered by owner's or operator's security as required  
 144 under Section 41-12a-301.

145 (b) (i) Twenty-five dollars of the impound fees assessed under Subsection (5)(a)(iv) are  
 146 dedicated credits to the Motor Vehicle Division;

147 (ii) \$84 of the impound fees assessed under Subsection (5)(a)(iv) shall be deposited in  
 148 the Department of Public Safety Restricted Account created in Section 53-3-106; and

149 (iii) the remainder of the impound fees assessed under Subsection (5)(a)(iv) shall be  
 150 deposited in the General Fund.

150a ~~h~~ **(c) SUBSECTION (5)(a)(vi) DOES NOT APPLY TO A LIEN HOLDER. h**

151 (6) An impounded vehicle, vessel, or outboard motor not claimed by the registered

152 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in  
153 accordance with that section and the proceeds, if any, shall be disposed of as provided in  
154 Section 41-1a-1104. The date of impoundment is considered the date of seizure for computing  
155 the time period provided in Section 41-1a-1103.

156 (7) The registered owner who pays all fees and charges incurred in the impoundment of  
157 the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and  
158 charges, together with damages, court costs, and attorney fees, against the operator of the  
159 vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

160 (8) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,  
161 or outboard motor.

162 (9) The department shall make rules in accordance with Title 63, Chapter 46a, Utah  
163 Administrative Rulemaking Act, setting the performance standards for towing companies to be  
164 used by the department.

165 (10) (a) The Motor Vehicle Division may specify that a report required under  
166 Subsection (3) be submitted in electronic form utilizing a database for submission, storage, and  
167 retrieval of the information.

168 (b) Unless otherwise provided by statute, the Motor Vehicle Division or the  
169 administrator of the database may adopt a schedule of fees assessed for utilizing the database.  
170 The fees shall be reasonable and fair and shall reflect the cost of administering the database.

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**Legislative Review Note**  
**as of 12-10-02 1:16 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note****Impounding Uninsured Motorist Vehicle***20-Jan-03***Bill Number HB0179***12:10 PM*

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**State Impact**

It is estimated that provisions of this bill can be implemented with existing resources.

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**Individual and Business Impact**

Owners of uninsured vehicles involved in accidents will be required to obtain insurance and pay an impound fee as a prerequisite for release of the vehicle. Under these circumstances, the cost of insurance will likely be very expensive.

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**Office of the Legislative Fiscal Analyst**

